IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

RCRev..No. 309 of 2005()

RCA.87/2004 of V ADDL. DISTRICT COURT, ERNAKULAM
RCP.69/1998 of I ADDL.M.C.,ERNAKULAM
.....

REVISION PETITIONER/APPELLANT/RESPONDENT:

MANUAL PINHEERA, AGED 53,
S/O. GEORGE, PARTNER, MIANI COLD STORAGE,
ERNAKULAM SOUTH, KOCHI-16.

BY ADV. SRI.K.C.CHARLES
SRI.A.BALAGOPALAN
SRI.BASIL MATHEW

RESPONDENTS/RESPONDENTS/PETITIONERS:
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1. K.P. NARAYANAN NAMBIAR,
AGED 53, S/O. MADHAVAN NAMBIAR,
NARAYANEEYA, CHITTOR ROAD,
ERNAKULAM SOUTH, KOCHI-16.

2. PREMA NAMBIAR, W/O. K.P. NARYANAN
NAMBIAR, AGED 51, NARAYANEEYA,
CHITTOOR ROAD, ERNAKULAM SOUTH, KOCHI-16.

BY ADV. SRI.JOHNSON ABRAHAM

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.BALAKRISHNAN NAIR
&
T.R.RAMACHANDRAN NAIR, JJ.

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R.C.R.No. 309 of 2005.
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Dated this the 1st day of November, 2007.

O R D E R

Balakrishnan Nair, J.

This revision is filed by the tenant against the judgment in Rent Control Appeal No.87/2004 in which the order of eviction granted under Sec.11(4)(iii) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act) in favour of the landlords as per order in RCP.No.69/1998 has been affirmed. The petitioner has got a case that he was not given a fair opportunity to adduce evidence regarding the case of landlords that the petitioner herein is in possession of two rooms other than the tenanted premises. The denial of opportunity to adduce evidence to the revision petitioner

is the subject matter of Rent Control Revision No.307/2005. If that revision is allowed, the petitioner will get a chance to adduce evidence on the claim of the landlords under Sec.11(4)(iii) of the Act. In other words, if that revision is allowed, the findings under Sec.11(4)(iii) will stand set aside. Therefore, this revision filed separately against the finding under Sec.11(4)(iii) need not be heard on merits. Accordingly, this revision can be closed without prejudice to the contentions of the petitioner under Sec.11(4)(iii) and his right to pursue RCR.No.307/2005. In the appellate order, we notice that there is a direction for eviction under Sec.11(2)(b) which is challenged in this Revision. The learned counsel for the petitioner submitted that the tenant did not pay the rent to the landlords because of his dispute regarding their title. It is also submitted that the amount was deposited in court. In view of the above position, the learned counsel for the petitioner submitted that he is not disputing the finding under Sec.11(2)(b) in view of the order of this Court regarding title made today, in RCR.No.330/2007.

So, the Rent Control Revision Petition stands dismissed without prejudice to the right of the petitioner pursue RCR.No.307/2005.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

kvs/-